

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TONY PENWELL,

Plaintiff,

v.

CHERYL STRANGE, *et al.*,

Defendants.

CASE NO. 3:21-cv-05722-RJB-JRC

ORDER DENYING STAY

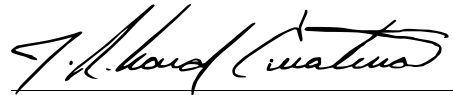
This matter is before the Court on referral from the district court and on plaintiff's motion to stay the proceedings indefinitely. *See* Dkt. 50.

The Court "may order a stay of the action pursuant to its power to control its docket and calendar and to provide for a just determination of the cases pending before it." *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 864 (9th Cir. 1979). However, there is no right to a stay and the party requesting a stay bears the burden of showing the circumstances justify a stay. *Nken v. Holder*, 556 U.S. 418, 433–34 (2009). Indefinite stays are disfavored. *See Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007).

1 Here, plaintiff has not provided sufficient justification for an indefinite stay. Plaintiff
2 appears to allege that he is unable to litigate this action because he was transferred to another
3 facility and has not received many of his personal items, such as books, notes, highlighters, and
4 other similar items he claims he needs. *See* Dkt. 50 at 1–4. However, since plaintiff signed his
5 motion to stay on July 5, 2022 (Dkt. 50), he filed a motion for preliminary injunction on July 15,
6 2022 (Dkt. 53) and filed a response to defendants’ objections (Dkt. 56) as well as a motion for
7 leave to file an amended complaint on July 29, 2022 (Dkt. 57). Thus, plaintiff appears to be able
8 to continue litigating this action despite his claims to the contrary.

9 Accordingly, plaintiff’s motion is denied. Dkt. 50.

10 Dated this 18th day of August, 2022.

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12 J. Richard Creatura
13 Chief United States Magistrate Judge
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